

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

FARRELL WAYNE CROSS,)
Petitioner,)
vs.) Case No. 4:19-cv-03194-MTS
EILEEN RAMEY,)
Respondent.)

MEMORANDUM AND ORDER

This matter comes before the Court on Petitioner Farrell Wayne Cross's Motion for Leave to Proceed in Forma Pauperis on Appeal, Doc. [42], and Motion for Certificate of Appealability, Doc. [43]. On March 31, 2023, this Court denied Petitioner's Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254, Doc. [39], and entered a Judgment of Dismissal with Prejudice, Doc. [40]. On June 26, 2023, the Clerk of Court received and docketed Petitioner's Motion for Leave to Proceed in Forma Pauperis on Appeal and Motion for Certificate of Appealability. The Court previously concluded that Petitioner has not made a substantial showing of a denial of a constitutional right and that the Court would not grant a certificate of appealability. Doc. [39] at 25; *see also* 28 U.S.C. § 2253(c)(2). That conclusion remains true today. Therefore, the Court will deny Petitioner's Motion for Certificate of Appealability.

The Court also now certifies that Petitioner's appeal would not be "taken in good faith." *See* 28 U.S.C. § 1915(a)(3) ("An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith."). Petitioner failed to timely appeal this Court's denial of his habeas Petition. *See* Fed. R. App. P. 4(a)(1)(A); *see also Perry v. Brown*, 854 F. App'x 725, 727 (7th Cir. 2021) ("A state prisoner must appeal from the denial of a habeas

petition within 30 days of the judgment.”); *Bonner v. Sullivan*, 123 F. App’x 286, 287 (9th Cir. 2005) (“We lack jurisdiction to review the underlying judgment denying [the petitioner’s] § 2254 petition because he did not file a timely tolling motion nor did he file a notice of appeal within 30 days.”); *Sambolin-Robles v. Corr. Admin.*, 21-1398, 2021 WL 5549645, at *1 (1st Cir. Oct. 14, 2021), *cert. denied*, 142 S. Ct. 2682 (2022) (dismissing a petitioner’s appeal of the denial of his § 2254 habeas petition where the petitioner failed to file a notice of appeal within thirty days of the district court’s judgment). Therefore, the Court will deny Petitioner’s Motion for Leave to Proceed in Forma Pauperis on Appeal.

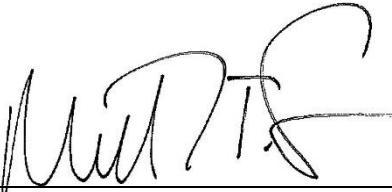
Accordingly,

IT IS HEREBY CERTIFIED that Petitioner Farrell Wayne Cross’s appeal would not be taken in good faith.

IT IS HEREBY ORDERED that Petitioner Farrell Wayne Cross’s Motion for Leave to Proceed in Forma Pauperis on Appeal, Doc. [42], is **DENIED**.

IT IS FURTHER ORDERED that Petitioner Farrell Wayne Cross’s Motion for Certificate of Appealability, Doc. [43], is **DENIED**.

Dated this 28th day of June 2023.



MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE